

REMARKS

Claims 1-3, 5, 7, 9-14, 16-18, 21-27 are pending. Claims 19, 20, 28, 29, 31-32 have been withdrawn. Claims 4, 6, 8, 15 and 30 has been canceled.

Claims 1-3, 5-14, 16-18 and 21-23 stand rejected under 35 USC 103 as being unpatentable over US Published Patent Application 2002/0049449 (“Bhatnagar”) in view of US Patent No. 4,645,488 (“Matukas”).

In the previous amendment, Applicant amended claim 1 to require a flexible proximal end portion and submitted that Matukas does not disclose a flexible proximal end portion. Applicant submitted that Matukas only discloses a flexible plastic barrel 10, a flexible closure plug 13 and a flexible piston 16. See col. 2, line 6, and col. 4, lines 21-22, and does not disclose a flexible piston rod 14.

In the current rejection, the Examiner's Figure on page 5 of the Action characterized the flexible piston 16 of Matukas as being in the proximal end portion, and characterized the thumb plate 15 of Matukas as being part of the distal end portion.

Applicant respectfully traverses.

Applicant submits that the proximal end portion of the plunger is that which is nearest to the user, while the distal end portion of the plunger is that which is furthest from the user. For example, Applicant has characterized the flexible plunger of FIG. 2 of the present application as having a distal end portion 23 sized for slidable reception in the bore and a proximal end portion 25. See as-filed specification at page 4, lines 18-19. Since the Patentee is entitled to be its own lexicographer, the proximal end portion of the plunger should be that which is nearest to the user, while the distal end portion of the plunger should be that which is furthest from the user. Put another way, the distal end 23 of the plunger is that which contacts the cement in FIG. 2.

Applying this lexicography to Matukas, it appears that the flexible piston 16 is furthest from the user and contacts the cement, and so should be considered the distal end portion. In contrast, piston rod 14 is nearer the user and so should be considered the proximal end portion. When the components are described in this context, Applicant submits that Matukas does not disclose a flexible plunger having a flexible proximal end portion.

Therefore, the present rejection should be withdrawn.

Claims 24-27 stand rejected under 35 USC 103 as being unpatentable over US Published Patent Application 2002/0049449 (“Bhatnagar”) in view of US Patent No. 4,645,488 (“Matukas”) and US Patent No. 4,865,591 (Sams).

As explained above, Matukas does not teach a flexible plunger having a flexible proximal end portion. Sams has been cited for its disclosure related to ratchet teeth and so does not cure the deficiencies of the proposed combination, nor of Matukas.

Therefore, the present rejection should be withdrawn.

Please provide any extensions of time which may be necessary and charge any fees which may be due to Deposit Account No. 10-0750/DEP5164/TMD, but do not include any payment of issue fees.

Respectfully submitted,

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